IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

SECOND APPEAL NO.122 OF 1989

Rabiyabi w/o Hasham & Ors. ...Appellants

Vs.

Ikbal Sk.Mohamad Musalman & Ors. ...Respondents

Mr.V.A.Thorat for the Respondent Nos.1 to 3.

CORAM: A.S.OKA, J.
DATED: JANUARY 20,2005.

P.C.:

1. The learned Counsel for Respondents states that Respondent No.2 has expired long back. No application is made for bringing on record his legal representatives within stipulated period. Hence, Second Appeal stands abated as against the Respondent No.2.

2. It appears that the main contention raised in the suit is that comprise decree passed in R.C.S.No.76 of 1968 is not binding on the Appellants-Plaintiffs. Admittedly, all the three Respondents are parties to the said R.C.S.No.76 of 1968. As the decree passed by the Appellate Court in favour of the Respondent No.2 stands confirmed as a result of abatement of Appeal as against the Respondent No.2, this Appeal cannot be proceed against rest of the Respondents.

3. In view of this position, Appeal is dismissed with no order as to costs.

Judge.